

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE PORK ANTITRUST LITIGATION

Case No. 0:18-cv-01776-JRT-JFD

This Document Relates To:
ALL ACTIONS

**JOINT STATUS REPORT FOR
DECEMBER 20, 2022, STATUS
CONFERENCE**

Counsel for Direct Purchaser Plaintiffs, Consumer Indirect Purchaser Plaintiffs, and Commercial and Institutional Indirect Purchaser Plaintiffs, the Commonwealth of Puerto Rico, and the Direct Action Plaintiffs (collectively, “Plaintiffs”) and Defendants (collectively, the “Parties”), in the above-captioned consolidated action submit the following status report for the December 20, 2022 status conference.

The Parties will be prepared to address the following topics, in addition to any other item the Court would like to discuss:

1. Depositions Defendants seek to take after the close of fact discovery.

The parties are continuing to schedule the depositions of certain DAP fact witnesses, and a list of outstanding DAP depositions is included in Exhibit A. Additionally, “Requesting Defendants”¹ seek to take the deposition of two third parties that were subject to subpoenas issued during discovery; the Parties’ respective positions concerning those third-party depositions are also included in Exhibit A.

¹ As used herein, “Requesting Defendants” does not include JBS USA.

2. An “Industry Day” proceeding Defendants will ask the Court to hold.

The Parties have met and conferred about an “Industry Day” proceeding that Defendants would like the Court to hold. Brief written description of the issues, including the Parties’ respective positions, is attached hereto as Exhibit B.

3. A process and schedule related to the authenticity and admissibility of potential trial exhibits.

The Parties have exchanged correspondence and met and conferred about a process and schedule that Plaintiffs have proposed regarding the authenticity and admissibility of potential trial exhibits. The parties are prepared to provide an update to the Court. *See* Order on Proposed Schedule for Merits Expert Discovery, Dispositive Motions, and Certain Evidentiary Issues, ECF No. 1651 (“The parties will continue to meet and confer about the timing and process related to the authenticity and admissibility of potential trial exhibits. The parties will provide an update to the Court at the next status conference.”). However, as the Parties are continuing to meet and confer to try to reach agreement or narrow and focus any areas of disagreement, they do not believe Court intervention is ripe and propose to provide a further update to the Court at the next status conference

4. Seaboard’s production of Daily’s post-spinoff structured data.

Plaintiffs and Seaboard negotiated Seaboard’s production of Daily’s post-spinoff structured data. As part of that process, Seaboard produced a sample data set of Daily’s post-spinoff structured data to Plaintiffs so that Plaintiffs could identify the data fields they considered relevant. In doing so, Plaintiffs identified discrepancies and points for

clarification in the data set and sought clarification from Seaboard. Seaboard later produced a full data set of Daily's post-spinoff structured data but did not address all of the discrepancies or points of clarification raised by Plaintiffs. Discussions regarding this issue are ongoing, and the Parties do not seek the Court's intervention at this time.

5. Status update regarding the deposition of Tyson employee Sumio Matsumoto.

Plaintiffs have served the letter rogatory on Canadian counsel for Tyson and Mr. Matsumoto. Tyson has advised Plaintiffs of its intent to challenge the request for discovery, and the relevant parties are discussing available dates in February for "long chambers" (e.g., a hearing of more than two hours). The parties will be prepared to provide an update to the Court and answer any questions the Court may have about this process.

6. DAPs' Consolidated Amended Complaint.

Defendants: As noted in the October Joint Status Report (Doc. 1542), several defendants raised Rule 11 compliance issues with certain allegations made in DAPs' prior complaints. With fact discovery closed, and upon review of DAPs' Consolidated Amended Complaint, Defendant Triumph Foods, LLC ("Triumph") believes the most efficient resolution for the continued allegations against Triumph is an immediate motion for summary judgment. Triumph is preparing a motion for leave with a proposed motion and intends to present that to the Court with its answer to the DAPs' Consolidated Amended Complaint on January 20, 2023. Other Defendants are continuing to evaluate these issues.

DAPs: The DAPs object to inclusion of this item since there has been no meet and confer since the DAP consolidated amended complaint was filed on December 5.

7. Class certification briefing.

Defendants to the class actions intend to seek leave from the Court to file a sur-reply in support of their opposition to all Class Plaintiffs' motions for class certification. Defendants will seek a meet and confer with Class Plaintiffs on this issue prior to filing with the Court.

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